

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Qwest Communications International, Inc.)	
Consolidated Application for Authority to)	WC Docket No. 02-189
Provide In-Region, InterLATA Services in)	
the States of Montana, Utah, Washington)	
and Wyoming)	

**REPLY COMMENTS OF
WORKING ASSETS FUNDING SERVICE, INC.
dba WORKING ASSETS LONG DISTANCE**

Working Assets Funding Service, Inc. dba Working Assets Long Distance (“Working Assets”) hereby submits reply comments opposing the above-captioned application of Qwest Communications International, Inc. (“Qwest”) to provide in-region, interLATA services in Montana, Utah, Washington and Wyoming.¹ Qwest’s business practices and management decisions raise serious doubts that grant of its application under Section 271 of the Communications Act of 1934, as amended, would be in the public interest. At a minimum, the Commission should defer action on Qwest’s application until the business practices and corporate culpability issues surrounding Qwest have been resolved.

Qwest’s schemes involving secret, discriminatory interconnection arrangements and existing violations of Section 271 have already been described and documented in

¹ Working Assets is one of the few long distance resellers in the country primarily serving the residential market. Working Assets is a socially responsible company that donates a portion of its profits to various progressive causes and participates in a number of ways in advocacy campaigns on issues of interest to its customers.

comments filed in this proceeding. *See, e.g.*, Comments of Pilgrim Telephone, Inc. at pp. 4-8; Comments of AT&T Corp. at pp. 133-147; Comments of McLeodUSA Telecommunications Services, Inc. at pp. 3-5. In fact, Qwest's difficulties run deeper and only continue to mount. In July, the U.S. attorney's office in Denver initiated a criminal investigation against Qwest. *Associated Press*, July 10, 2002 ("Troubled communications giant Qwest says it is under investigation by U.S. attorney"). The Senate Commerce, Science and Transportation Committee also just recently conducted hearings on the behavior of executives at Qwest, WorldCom, Inc. and Global Crossing, Ltd. *See Telecommunication Reports*, "Senate Declares Open Season on Executive Fraud", August 5, 2002, p. 2.

These most recent developments are only the latest in a litany of investigations of and complaints against Qwest. Qwest has already been the subject of two Securities and Exchange Commission ("SEC") investigations into its accounting practices – an investigation into the use of *pro forma* earnings statements and expense data in its 2000 financial reports, and an investigation into its accounting treatment of network capacity swaps with other telecommunications companies.² Qwest has said it plans to restate its earnings for 1999, 2000 and 2001 because it used "incorrect" accounting for certain sales of network capacity. *Washington Post*, "Qwest Likely to Restate Earnings", July 29, 2002, p. A20. Yet in 2001, one of the years for which Qwest will restate its earnings, Joseph P. Nacchio, Qwest's chief executive until he was forced to resign in June 2002, made \$101.9 million in salary, bonus, long-term incentive pay, exercise of options and

other compensation.³ Upon his ouster, Mr. Nacchio received an additional \$10 million bonus. As Sen. Byron Dorgan stated in the recent Senate hearings, “When somebody cooks the books the last thing you do is give him incentive pay.”⁴ Given this history of mismanagement and financial impropriety, the accuracy of Qwest’s financial and operational reporting systems used to justify its application must be questioned.

Qwest’s treatment of its customers and potential customers is no less troublesome. Qwest recently entered into a settlement with the Colorado Attorney General to close a complaint proceeding alleging improper sales tactics such as cramming unauthorized services on bills and failing to fully disclose prices and terms. *Communications Daily*, August 16, 2002. Since 1999, Qwest has settled deceptive sales complaints in 12 other states. *Id.* In December 2001, the California Public Utilities Commission fined Qwest \$38 million for slamming, cramming and other improper marketing activities. *Investigation on the Commission’s Own Motion into the Operations, Practices and Conduct of Qwest Communications Corporation*, I00-11-052, Order Finding Violations and Imposing Sanctions, December 5, 2001.

In light of all of these irregularities and questionable practices, Working Assets believes it would be prudent for the Commission to delay its decision until all of the relevant facts have been revealed and the Commission can be assured that its decision will be based on accurate, complete and reliable information. To accomplish this, the

² The SEC “has been particularly interested in a controversial 11th-hour deal between Enron and Qwest last fall.” *TheStreet.com*, “Criminal Probe News Cuffs Qwest”, July 10, 2002.

³ *Washington Post*, “Qwest Discloses Accounting Investigation by U.S. Attorney”, July 11, 2002, p. E3. See also Qwest Schedule 14A, Definitive Proxy Statement, filed with the SEC April 9, 2002.

⁴ *Telecommunications Reports*, Vol. 68, No. 31, “Senate Declares Open Season on Executive Fraud”, August 5, 2002, p. 3.

Commission should seek additional confirmation that information provided by Qwest in support of its application has either been verified by an independent source, will be verified by an independent source, or is reliable and trustworthy in the absence of such independent verification. The public deserves that consideration.

Given the level of corporate misconduct being reported recently in this country, together with the fragile state of the telecommunications industry as a whole, Working Assets believes that this Commission should proceed carefully rather than hastily before it rewards a company at the center of so many allegations of misconduct. Consumers will benefit very little from another long distance carrier being added to the fray based on a decision that disregards the plethora of damaging information about the applicant. Consideration of Qwest's application should, at the very least, be postponed until Qwest's new management can demonstrate its financial and operational integrity.

Respectfully submitted,

/s/
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August 26, 2002

CERTIFICATE OF SERVICE

I, Theresa Fenelon Falk, hereby certify that I am counsel to the law firm of Pillsbury Winthrop LLP, and that on this 26th day of August, 2002, I caused to be sent by first class United States mail, postage prepaid, a copy of the foregoing REPLY COMMENTS OF WORKING ASSETS FUNDING SERVICE, INC. dba WORKING ASSETS LONG DISTANCE to the following:

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